

STATEMENT BY CONGRESSMAN BOB FILNER
COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES
Wednesday, October 17, 2001

Mr. Chairman and Members of the Committee, I would like to thank you for this opportunity to testify on the subject of H.R. 1239, which I cosponsored along with my California colleagues, Duncan Hunter, Duke Cunningham and Darrell Issa. As you know, this legislation seeks to address a controversy among a group of Indian tribes in San Diego County, as to the disposition of an Indian health clinic. Last year, an identical bill passed the House unanimously with the support of both the Republican and the Democratic sides of this committee. I hope the committee will take similar action this year.

Mr. Hunter testified as to the importance of the health clinic in question for people in San Diego County, and I would add my unqualified agreement. I would urge this committee to focus on making sure that any changes that affect the health clinic be the subject of consensus among the tribes, and in the interest of all people, Indian and non-Indian, who depend on the facility.

Let me state my strong opinion that this is not a gaming issue - I don't believe you'll hear testimony from anyone today who doesn't support the sovereign rights of tribes to conduct gaming operations on tribal lands if they decide to do so. Most gaming questions involve balancing the rights of tribes with the rights of states or the federal government. This issue focuses on the rights, responsibilities, and obligations tribes have with respect to each other. The land in question was taken into trust at the request of seven tribes, with the support of seven tribes, and for the benefit of seven tribes. It would never have been taken into trust for the benefit of any one tribe, particularly for the purpose of a gaming facility.

But I would emphasize that H.R. 1239 is not about prohibiting or restricting gaming on the site - it's purpose is to foster discussion, and hopefully consensus among the tribes before the clinic site can be used for any other purpose - whether gaming, a

shopping mall or a parking lot.

I submit, as have others, that the Bureau of Indian Affairs (BIA) erred back in the mid-1980's when it decided to take a parcel into trust for seven tribes and only title it to one, and the Jamul and Manzanita Tribes showed considerable foresight when they opposed this. Of course, the error is easy to understand, as the decision was made in the days before Indian gaming took hold on any large scale. It is hard to blame the BIA for failing to foresee a day when a tribe might seek to use the parcel for any use other than as a health clinic.

However, my California colleagues and I have written to BIA urging them not to approve the lease relinquishment as long as controversy continues to surround it, and with representatives from BIA in the room, let me re-emphasize that point. As I said, it is easy to understand BIA's failure to foresee potential problems from the perspective of 1985; however it will be far harder to understand if that agency now takes precipitous action to exacerbate those problems.

H.R. 1239 is an effort to partially correct that administrative error by requiring consensus among the tribes before the use of the property can change - this does not give all seven tribes equal title to the parcel, but it gives all seven tribes equal say over how that parcel will be used, if it is to be used for anything other than its original purpose.

It is my understanding that the committee is likely to hear testimony to the effect that the change in land use will actually provide better care for the users of the clinic than they have access to today. If this is the intent of the Cuyapaaipe tribe, that is good news, and news that deserves to be considered. However, I would urge this committee to make sure that promises of improved health care are specific and enforceable, and that the resources for this improved health care are assured regardless of the fate of the casino. I am aware that some information is available in the proposed lease between Cuyapaaipe and the Southern Indian Health Council (SIHC), but my concern is that the other tribes have no recourse should the conditions in that lease not be met. As I understand the issue, if the BIA approves the lease relinquishment, only one thing is certain: A casino will go up on a site that was designed for a health clinic. To the extent that the committee can put additional commitments from the Cuyapaaipe tribe, the SIHC and the investor into a record, the committee will have served my constituents well.

However, even if every promise from supporters of the casino is true, and even if they each were enforceable, I would still have concerns about the propriety of allowing the

change in land use in the absence of consensus among the tribes, mainly as a matter of principle. Another benefit that may come from this hearing is that the give-and-take between the two tribes at the center of this controversy might be the first step toward achieving that consensus, and making the legislation unnecessary.

Mr. Chairman, I thank the committee for its attention to these matters at this critical juncture. I know that this committee has many issues to consider, and I appreciate your focusing on one of importance to my constituents. Hopefully, with your oversight and intervention, we can take a matter of controversy and turn it into a matter of consensus, and reach a resolution satisfactory to all involved.

Once again, thank you for the opportunity to testify.